

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE
ILLINOIS COMMERCE COMMISSION

AQUA ILLINOIS, INC.) DOCKET NO.
) 11-0436
)
Proposed general increase in water)
and sewer rates. (Tariffs filed)
April 6, 2011))

Springfield, Illinois
Monday, October 17, 2011

Met, pursuant to notice, at 1:00 p.m.

BEFORE:

MR. LARRY JONES, Administrative Law Judge

APPEARANCES:

MR. JOHN E. ROONEY
ROONEY RIPPKE & RATNASWAMY LLP
350 West Hubbard Street, Suite 430
Chicago, Illinois 60654
Ph. (312) 447-2801

(Appearing via teleconference on
behalf of Aqua Illinois, Inc.)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
CSR #084-002710

1		<u>I N D E X</u>			
2					
3	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
4	(None)				
5					
6					
7					
8					
9					
10					
11					
12					
13		<u>EXHIBITS</u>			
14					
15				<u>MARKED</u>	<u>ADMITTED</u>
16	(None)				
17					
18					
19					
20					
21					
22					

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

PROCEEDINGS

JUDGE JONES: Good afternoon. I call for hearing Docket 11-0436. This is titled in part Aqua Illinois, proposed increase in water and sewer rates. (Tariffs filed April 6, 2011.)

At this time we will take the appearances orally for the record. If you have entered your appearance at a prior hearing, you need not restate your business address or phone number or re-spell your name, unless you simply prefer to do that.

We will start with appearances on behalf of Aqua Illinois, Inc.

MR. ROONEY: Thank you, Your Honor. On behalf of Aqua Illinois, Inc., John Rooney. And I have made an appearance previously so I won't go further.

JUDGE JONES: All right. Thank you.

Other appearances?

MS. CARDONI: On behalf of Staff witnesses Jessica L. Cardoni and Michael J. Lannon.

JUDGE JONES: Thank you.

Other appearances?

1 MS. YU: Cathy Yu and Susan Satter on behalf of
2 the Illinois Attorney General's Office, 100 West
3 Randolph Street, Chicago, Illinois 60601.

4 JUDGE JONES: Thank you.

5 MR. BAKK: James Bakk on behalf of Intervenor
6 County of Lake. I previously appeared.

7 JUDGE JONES: Thank you.

8 MR. ROBERTSON: Ryan Robertson on behalf of
9 Viscofan.

10 JUDGE JONES: Thank you.

11 Are there any other appearances?

12 (No response.)

13 Let the record show there are not, at
14 least at this time.

15 As parties are aware, the last time we
16 met at a status hearing, the question was discussed
17 regarding the location from which some of the parties
18 or counsel for parties would be participating. More
19 specifically, the use of a Chicago hearing room in
20 combination with Springfield, perhaps by video
21 conferencing was addressed.

22 Some ground was covered at that time.

1 It was indicated that some further communications
2 would be held between counsel of various parties to
3 see what, if anything, could be resolved on that
4 front prior to a status this week. As everyone
5 knows, this matter was advanced to today's date,
6 given certain conflicts that arose on the original
7 status hearing date which would have been Wednesday.

8 So having said that, I guess the first
9 question would be to ask about the status of the
10 above at this time.

11 MS. CARDONI: Judge, this is Jessica Cardoni.

12 As we discussed at our last status,
13 Staff counsel still cannot travel to Springfield for
14 the evidentiary hearings next week, and I have
15 reserved the video conference room in Chicago. I
16 understand that it is connected to a video conference
17 room in Springfield for Monday through Thursday,
18 pretty much the entire day on Tuesday, Wednesday and
19 Thursday and then the afternoon on Monday.

20 MR. ROONEY: Judge, this is John Rooney.

21 Last week I circulated an e-mail out
22 to the parties asking about witness availability as

1 well as any cross examination estimates. I haven't
2 received comments yet from all the parties in terms
3 of availability. I think we are just waiting to hear
4 back from the AG on Mr. Rubin's availability, and
5 then what the plans are generally and cross
6 examination estimates.

7 And from Aqua's perspective we have no
8 objection to the video conference set-up.

9 MS. SATTER: This is Susan Satter.

10 In the event there is cross
11 examination for Mr. Rubin, would it be possible for
12 him to do it either remotely by telephone or in
13 Chicago by video conference?

14 MR. ROONEY: This is John Rooney.

15 Aqua has no objection to that
16 approach. I will be in a position by tomorrow to let
17 you know where we stand with cross vis-à-vis
18 Mr. Rubin.

19 MS. SATTER: Okay, yeah, I think, yeah, we need
20 a little more time too, obviously. So maybe we can
21 report back.

22 MR. ROONEY: My biggest concern, quite

1 honestly, is going to be with our two witnesses who
2 will be coming in from out of town, Mr. Walker and
3 Mr. Monie. If we could find out about that sooner,
4 earlier in the week rather than later, that would be
5 great. Unless, Judge, you have questions for any of
6 the witnesses, we will certainly have our witnesses
7 available if you have questions as well. But to the
8 extent no parties or you, Judge, have questions, then
9 we would ask to try to move in that testimony by
10 affidavit.

11 JUDGE JONES: On that point I will just say
12 this for today's purposes. If there are witnesses
13 for whom there is no cross examination by other
14 parties and then assuming no objections, then that
15 testimony can be put in by affidavit. So I will not
16 cause a witness to go on the stand that is otherwise
17 a witness for whom there is no cross. As noted, that
18 testimony can go in by affidavit by agreement of the
19 parties if that's what the parties wish to do with
20 respect to any given witness.

21 Now, I realize this is somewhat of a
22 fluid process in that regard as parties are still

1 going through or counsel are still going through the
2 testimony to see if there are questions, at least in
3 some instances. In the event that there are no
4 questions of a witness but affidavits are not yet
5 available as of the hearing dates, then, again,
6 assuming no objection, I do not have a problem with
7 affidavits for those no cross witnesses to be
8 late-filed subsequent to the evidentiary hearings.

9 MR. ROONEY: And, Judge, maybe given that just
10 so that you are aware of just the availabilities we
11 have received up to this point, it was going to be --
12 and right now, the intervenor witnesses, it looked
13 like their availability was set for Wednesday next
14 week and, again, I hadn't heard regarding Mr. Rubin.
15 Staff counsel had asked for Staff witnesses to go on
16 Tuesday, and what we were going to suggest is for
17 Aqua's operational and accounting folks to go on
18 Monday afternoon and then Mr. Walker and Monie who
19 are the ROE and rate design witnesses, respectively,
20 would go on Tuesday as well.

21 JUDGE JONES: All right. You are still working
22 on that, is that right?

1 MR. ROONEY: That's correct. I think that's
2 tentative, given the information I received. Again,
3 I will discuss with counsel for AG off line with
4 Mr. Rubin, and our plan would be to circulate to you,
5 once we got the finalized schedule and estimates,
6 what was the proposed schedule we could get to you
7 later this week.

8 JUDGE JONES: You can go ahead and send that to
9 me at that point then with, of course, copies to the
10 other parties.

11 MR. ROONEY: Absolutely.

12 JUDGE JONES: I realize that that's still under
13 construction and working toward getting that finished
14 up.

15 As far as the Chicago connection,
16 there may still be a couple of questions about that.
17 I think you indicated no objection to Mr. Rubin's
18 participation from somewhere other than Springfield,
19 but I am not sure what the position of others is with
20 respect to whether he would be in Chicago then for
21 cross via video conference, if there is cross of him,
22 or whether there was some other means that was being

1 discussed with respect to that.

2 MS. SATTER: I would like the opportunity --
3 this is Susan Satter -- to talk to the other parties
4 about allowing him to testify remotely by telephone.

5 MR. ROONEY: Judge, maybe once we conclude the
6 -- well, unless you want to do that now, Sue, either
7 way.

8 MS. SATTER: No, I thought we could talk about
9 it off line when we talk about everything else.

10 MR. ROONEY: Okay.

11 JUDGE JONES: So as I understand it, if there
12 is cross of Mr. Rubin then, there is still
13 communications between the parties with respect to
14 whether his cross would be by video conferencing in
15 the Chicago office or whether it would be by
16 telephone from somewhere else. That subject is still
17 under discussion among the parties, be that counsel
18 for Aqua or the AG's office or Staff or others.

19 And one other thing with regard to a
20 video conferencing connection, Ms. Cardoni, did you
21 indicate that you reserved the Springfield video
22 conferencing room as well? Is that what you said or

1 did I misunderstand?

2 MS. CARDONI: My understanding is that when I
3 reserve the Chicago video conference room, the
4 Springfield conference room that's hooked up with
5 that is reserved at the same time.

6 JUDGE JONES: I guess whether it would be the
7 video conference room or Room A is sort of an unknown
8 at this point in terms of making that connection. It
9 may depend in part on the IT here as well as the
10 numbers involved.

11 MS. CARDONI: Well, if you want me to look into
12 it, Judge, I am happy to do so if you have a
13 preference.

14 JUDGE JONES: It may depend in part on the
15 number of participants that would be actually in
16 Springfield at the time. There is also a Commission
17 meeting next week which could impact some of this on
18 the 25th. The morning of the 25th there is a regular
19 open meeting. So that would have to be coordinated,
20 too, in some manner in terms of the video conference
21 arrangements. I mean, it is still a little ways
22 away, but I will mention it. I will mention it now.

1 Now, would there be other parties
2 beyond the ones we have just heard from that would be
3 looking to participate by means of video conferencing
4 in Chicago?

5 MR. BAKK: Yeah, if there is going to be a
6 video conferencing room available in Chicago, that's
7 where I would appear on behalf of the County of Lake
8 as the intervenor. From Waukegan it would be an
9 awful lot easier getting into Chicago than down to
10 Springfield.

11 JUDGE JONES: Okay. Did Mr. Rooney or others
12 have any comment on that?

13 MR. ROONEY: Not at this time.

14 MS. CARDONI: Staff has no problem with that.

15 JUDGE JONES: All right. Mr. Rooney, do you
16 have an objection, potential objection, to it or do
17 you plan to talk to Mr. Bakk about it?

18 MR. ROONEY: I have no objection to Mr. Bakk's
19 appearance in the Chicago office.

20 JUDGE JONES: Thank you.

21 All right. I think the last time we
22 met, given this video conferencing development,

1 Ms. Cardoni, I think you indicated you were looking
2 at some other questions that could arise, such as
3 cross exhibits, that sort of thing, as people will be
4 in different places. Is that still something you are
5 working on with the parties?

6 MS. CARDONI: I am still looking into it. At
7 this point I don't know, since we are not clear on
8 exactly who is going to be crossed, I don't know
9 what, if any, exhibits will be necessary. I think
10 just generally Staff counsel would appreciate that,
11 if at all possible, any attorneys appearing in
12 Springfield that will have exhibits for Staff, that
13 those exhibits could be distributed ahead of time to
14 Staff counsel via e-mail, either the night before or
15 the morning of, preferably.

16 JUDGE JONES: Is that something you are going
17 to discuss further with them off line or do you want
18 to speak more to that today?

19 MS. CARDONI: I can discuss that further off
20 line, Judge. We don't want to make a big deal out of
21 something that might not be an issue at all.

22 JUDGE JONES: Mr. Robertson, do you plan to be

1 in Springfield?

2 MR. ROBERTSON: Yes, Your Honor, I do.

3 JUDGE JONES: Mr. Rooney, you indicated you
4 would be at some point circulating an e-mail that
5 will attempt to indicate some cross estimates and the
6 order of witnesses or witnesses by day, anyway. Will
7 that also include no cross witnesses to the extent it
8 is known?

9 MR. ROONEY: Yes, Judge, it will work flex
10 both.

11 JUDGE JONES: Thank you.

12 Does anyone have anything else to ask
13 or say with regard to, I guess, any of the above?

14 MR. BAKK: Well, this is Jim Bakk.

15 Just the location of the Chicago video
16 conference room?

17 MS. CARDONI: Mr. Bakk, this is Jessica.

18 We are located at the Commission at
19 the general address 160 North LaSalle and it is on
20 the 8th floor.

21 MR. BAKK: The 8th floor, okay.

22 MS. CARDONI: The receptionist will point you

1 in the correct direction.

2 MR. BAKK: Thank you.

3 JUDGE JONES: All right. Does anyone else have
4 anything to ask or comment on with regard to any of
5 the above?

6 MR. ROONEY: Judge, John Rooney again.

7 I don't know if the parties would like
8 to just remain on the line after we conclude the
9 hearing to talk about any of the issues that we
10 wanted to; we could do that. I just wanted to make
11 that offer.

12 JUDGE JONES: Thank you. All right. One
13 moment.

14 (Pause.)

15 One thing I will mention before I
16 forget, given the number of witnesses and exhibits,
17 this would be a case for the submission of exhibit
18 lists. Rather than take up extra time today talking
19 about what would be in those, there will be a ruling
20 that will go out this afternoon that will speak to
21 that. Basically, it will be a list of the exhibits
22 that the parties have filed that they at least plan

1 to offer into the evidentiary record. What will go
2 in that list, contents of that list, will be
3 identified in the ruling, but I will note that the
4 ruling will specify a filing date and time of 5:00
5 p.m. on Thursday. That will get exhibit lists
6 circulated then through service of that filing to all
7 the other parties and to me.

8 MS. SATTER: This is Susan Satter.

9 Is there anything else that we are
10 scheduled to file before the hearing or is it just
11 that list?

12 JUDGE JONES: Nothing else that I have added.
13 I mean, I think that there was one other date in that
14 schedule regarding motions that the parties built
15 into that schedule.

16 Now, one such motion has already been
17 filed so there is some scheduling that pertains
18 specifically to that. I think there was one other,
19 one date in the schedule that the parties put
20 together that applied to, what may have been referred
21 to, as pretrial or prehearing motions.

22 MS. SATTER: Oh, okay, so this is for motions,

1 okay.

2 JUDGE JONES: I don't remember the precise
3 wording but that was the date that was in the
4 proposed schedule that was adopted at the original
5 prehearing, I believe.

6 MS. SATTER: So there is nothing due tomorrow.
7 Thank you.

8 JUDGE JONES: Right. Just, well, I think that
9 one -- whoever would plan to file whatever motion,
10 types of motions that were contemplated on that date,
11 that that date may very well be tomorrow. But
12 nothing else has been added to the schedule for
13 tomorrow. The only other things in the schedule
14 right now would be the exhibit list filing and then
15 also filings that pertain to that Motion to Strike
16 pursuant to that scheduling ruling that went out last
17 week.

18 Okay. Does anyone have anything else
19 then scheduling related or related to any of the
20 above matters?

21 (No response.)

22 Let the record show they do not.

1 I take it then the parties are really
2 not looking to schedule another status. Rather, it
3 appears your belief is that whatever is yet to be
4 worked out or finalized can best be done off line and
5 then with some sort of update then by e-mail. That
6 is, you would use that process as opposed to trying
7 to schedule another status between now and the
8 evidentiary hearings. And if that's the intent here,
9 then that's -- then I think that's an acceptable
10 path.

11 So there is no other status hearings
12 to be scheduled then between now and the evidentiary
13 hearings, is that right?

14 MR. ROONEY: That's correct, Judge, from Aqua's
15 perspective.

16 JUDGE JONES: All right. Thank you.

17 All right. I think that may cover the
18 bases today. Let me make sure. Does anyone then
19 have anything else to take up at this time before we
20 conclude the status hearing this afternoon?

21 (No response.)

22 All right. Let the record show no

1 response.

2 Our thanks to Mr. Rooney for
3 circulating the call-in number. You want the line
4 left open down here, too? I guess there are Staff
5 persons in the room, so we will leave the line open
6 on this end as well so that you can conduct the
7 post-status conference just among the parties.

8 At this time then let the record show
9 that today's status is concluded, and in accordance
10 with the schedule this matter is continued to an
11 evidentiary hearing date to occur on October 24.

12 Off the record briefly regarding
13 scheduling.

14 (Whereupon there was then had an
15 off-the-record discussion.)

16 JUDGE JONES: Back on the record. There was a
17 short off-the-record discussion regarding the start
18 time of the evidentiary hearing on October 24. Let
19 the record show that that start time remains in place
20 at least as of this point in time.

21 So to conclude, this matter then is
22 continued to an evidentiary hearing date of October

1 24, commencing at 1:00 p.m.

2 (Whereupon the hearing in this
3 matter was continued until
4 October 24, 2011, at 1:00 p.m.
5 in Springfield, Illinois.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22